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HOUSE BILL 431

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Judy Vanderstar Russell

AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING THE DEFINITION OF
VIOLENT FELONY FOR THE PURPOSE OF SENTENCING A PERSON
CONVICTED OF THREE VIOLENT FELONIES TO LIFE IMPRISONMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-18-23 NMSA 1978 (being Laws 1994,
Chapter 24, Section 2, as amended) is amended to read:

"31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY
LIFE IMPRISONMENT--EXCEPTION. --

A. When a defendant is convicted of a third
violent felony, and each violent felony conviction is part of
a separate transaction or occurrence, and at least the third
violent felony conviction is in New Mexico, the defendant
shall, in addition to the sentence imposed for the third
violent conviction when that sentence does not result in

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1 death, be punished by a sentence of life imprisonment. The
2 life imprisonment sentence shall be subject to parole pursuant
3 to the provisions of Section 31-21-10 NMSA 1978.

4 B. The sentence of life imprisonment shall be
5 imposed after a sentencing hearing, separate from the trial or
6 guilty plea proceeding resulting in the third violent felony
7 conviction, pursuant to the provisions of Section 31-18-24
8 NMSA 1978.

9 C. For the purpose of this section, a violent
10 felony conviction incurred by a defendant before he reaches
11 the age of eighteen shall not count as a violent felony
12 conviction.

13 D. When a defendant has a felony conviction from
14 another state, the felony conviction shall be considered a
15 violent felony for the purposes of the Criminal Sentencing Act
16 if that crime would be considered a violent felony in New
17 Mexico.

18 E. As used in the Criminal Sentencing Act,
19 [~~(1)~~ "great bodily harm" means an injury to
20 the person that creates a high probability of death or that
21 causes serious disfigurement or that results in permanent loss
22 or impairment of the function of any member or organ of the
23 body; and

24 (2) "violent felony" means
25 [(a) murder in the first or second

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1 ~~degree, as provided in Section 30-2-1 NMSA 1978;~~
2 ~~(b) shooting at or from a motor vehicle~~
3 ~~resulting in great bodily harm, as provided in Subsection B of~~
4 ~~Section 30-3-8 NMSA 1978;~~
5 ~~(c) kidnapping resulting in great~~
6 ~~bodily harm inflicted upon the victim by his captor, as~~
7 ~~provided in Subsection B of Section 30-4-1 NMSA 1978; and~~
8 ~~(d) criminal sexual penetration, as~~
9 ~~provided in Subsection C or Paragraph (5) or (6) of Subsection~~
10 ~~D of Section 30-9-11 NMSA 1978; and~~
11 ~~(e) robbery while armed with a deadly~~
12 ~~weapon resulting in great bodily harm as provided in Section~~
13 ~~30-16-2 NMSA 1978 and Subsection A of Section 30-1-12 NMSA~~
14 ~~1978] any first or second degree felony involving the use or~~
15 ~~threatened use of force or violence."~~

16 Section 2. EFFECTIVE DATE. --The effective date of the
17 provisions of this act is July 1, 1999.